

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

RYAN D. HOBBS,

Plaintiff,

:

Case No. 1:17-cv-441

- vs -

District Judge Michael R. Barrett

Magistrate Judge Michael R. Merz

DEREK FAULKNER, et al.,

Defendants.

:

**REPORT AND RECOMMENDATIONS ON FIFTH MOTION FOR
RELIEF FROM JUDGMENT**

This Court entered final judgment dismissing this case on March 29, 2019 (ECF Nos. 75, 76). Since that time Plaintiff has filed five Motions for Relief from Judgment under various theories (ECF Nos. 82, 85, 96, 115, 118). None of them have had any merit. The instant Motion merely rehearses Plaintiff's theory that the Court lacks authority to dismiss a case under Fed.R.Civ.P. 12(b)(6) without allowing discovery. That simply is not the law. *Bell Atlantic Corp. v. Twombly*, 550 U.S.544, 555 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

The Court final judgment is sound and should not be reopened. Plaintiff's instant Motion should be denied.

November 26, 2019.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by mail. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140, 153-55 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).